

TRANSLATION

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference VALS 946 PCT	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/FR2005/050022	International filing date (<i>day/month/year</i>) 14.01.2005	Priority date (<i>day/month/year</i>) 16.01.2004
International Patent Classification (IPC) or national classification and IPC B05B11/00, B65D83/14		
Applicant VALOIS SAS		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of <u>2</u> sheets, as follows: <input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-7 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 12 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-11 _____ received by this Authority on 15.11.2005 with letter of 14.11.2005
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/1 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☒ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☒ the claims, nos. 12 _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1.	Statement		
	Novelty (N)	Claims <u>1-11</u>	YES
		Claims _____	NO
	Inventive step (IS)	Claims <u>1-11</u>	YES
		Claims _____	NO
	Industrial applicability (IA)	Claims <u>1-11</u>	YES
		Claims _____	NO
2.	Citations and explanations (Rule 70.7)		
1.	Reference is made to the following documents:		
	D1: US 5 108 013 A (VANBROCKLIN OWEN F)		
	28 April 1992 (1992-04-28).		
2.	INDEPENDENT CLAIM 1		
2.1	Document D1, which is considered to be the prior art closest to the subject matter of claim 1, describes (the references between parentheses apply to said document):		
	<ul style="list-style-type: none"> - a fluid-dispensing device comprising a dispensing member (10) such as a pump or a valve, a fluid container (14), an attachment element (16) for attaching said dispensing member (10) onto a neck (113) on said container (14), and a collar (18) arranged between the body (30, 38) of said dispensing member (10) and said attachment element (16), wherein said collar (18) comprises a deformable radial flange (104) comprising deformable sealing means (108, 109) that extend away therefrom, 		

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>said radial flange (104) is, after assembly, deformed and sealingly engages the upper edge of said neck (113, 115) of said container (14), and said sealing means (108, 109) are, after assembly, deformed and sealingly engage said attachment element (16).</p> <p>2.2 It follows that the subject matter of claim 1 differs from this known device in that:</p> <ul style="list-style-type: none">- said radial flange is curved upwards prior to assembly. <p>The subject matter of claim 1 is, therefore, novel (PCT Article 33(2)).</p> <p>2.3 As a result, the problem that the present invention is intended to solve can be considered to be that of enhancing sealing between the container neck and the element for attaching the dispensing member onto said neck.</p> <p>2.4 The solution to this problem, as proposed in claim 1 of the present application, is considered to involve an inventive step (PCT Article 33(3)), for the following reasons:</p> <ul style="list-style-type: none">- the specific structure of the radial flange, i.e. it is curved upwards prior to assembly, compensates for the production tolerances of the various component elements in the device and also means that said flange can be adapted to different (geometric) configurations of said container neck. Size variation is compensated

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	<p>for not only by the deformability of the material <i>per se</i> but especially by the curved structure of said radial flange.</p> <p>This technical feature cannot be directly and unambiguously derived from the present prior art. As a result, claim 1 involves an inventive step.</p> <p>3. DEPENDENT CLAIMS 2-11</p> <p>Claims 2-11 are dependent on claim 1 and, as such, therefore also fulfil the PCT requirements of novelty and inventive step.</p>

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. Contrary to the requirements of PCT Rule 5.1(a)(iii), the description is no longer consistent with claim 1. Indeed, the curved structure of the radial flange is now an essential feature of the invention and, as a result, the term "advantageously" on page 5, line 6, of the description should be removed in order to bring the description into line with claim 1.
2. Independent claim 1 has not been drafted in two parts, as required by PCT Rule 6.3(b), yet such a drafting would appear to be appropriate in this particular case, with a preamble containing the combination of features known from the prior art (document D1) (PCT Rule 6.3(b)(i)), and a characterising portion containing the remaining features (PCT Rule 6.3(b)(ii)).

In the present case, the characterising portion should contain only the following feature:

- "said radial flange is curved upwards prior to assembly".